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Regulation on Entry and Exit Aquatic Products

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Report Highlights:

On April 20, 2010, China notified the WTO of Administrative Measures of Inspection, Quarantine, and Supervision on Entry and Exit Aquatic Products as G/SPS/N/CHN/205. This measure is a revision to Decree No. 31 of AQSIQ. It stipulates the Chinese requirements for inspection, quarantine, and supervision of imported and exported aquatic products. The date for submission of final comments to China is June 19, 2010. The proposed date of entry is not stipulated. Contact information on where to send comments is inside the report. This report is an INFORMAL translation of this document.

Executive Summary:

On April 20, 2010, China notified the WTO of Administrative Measures of Inspection, Quarantine, and Supervision on Entry and Exit Aquatic Products as G/SPS/N/CHN/205. This measure is a revision to Decree No. 31 of AQSIQ. It stipulates the Chinese requirements for inspection, quarantine, and supervision of imported and exported aquatic products. The date for submission of final comments to China is June 19, 2010. The proposed date of entry is not stipulated. This report is an INFORMAL translation of this document.

Comments can be sent to the China WTO SPS Enquiry Point at: SPS@aqsiq.gov.cn.

Thanks go to the Embassy of Australia in China for their assistance with this translation.

General Information:

BEGIN TRANSLATION

Administrative Measures of Inspection, Quarantine and Supervision on Entry and Exit Aquatic Products**Chapter I. General Rules****Article 1 Purpose and basis**

In order to strengthen the inspection and quarantine of entry and exit aquatic products and the supervision and administration thereof, to guarantee the quality safety and sanitation of entry and exit aquatic products, prevent the transfer of animal disease into/out of China, and to protect the safety of fishery production and human health, these Regulations are formulated in accordance with the Law of the People's Republic of China on Import and Export Commodity Inspection and the implementation regulations thereof, the Law of the People's Republic of China on Import and Export Animal and Plant Quarantine and the implementation regulations thereof, the Law of the People's Republic of China on Frontier Sanitation Quarantine and the implementation regulations thereof, the Food Safety Law of the People's Republic of China, the Special Regulations of the State Council for Strengthening Supervision and Management of Safety of Food and other Products, and other relevant laws and regulations.

Article 2 Range of application

These Regulations shall apply to the inspection and quarantine of entry and exit aquatic products and the supervision and administration thereof.

Article 3 Definition of aquatic products

Aquatic products - as used in these Regulations shall refer to the aquatic animals and the products thereof for human consumption, including the aquatic animals like scyphozoa, molluse, crustacean, echinodermata, cephalo chordata, fish, amphibian, reptile, aquatic mammal, other aquatic animals, and aquatic plants like alga, etc. and the products thereof (excluding live aquatic animals and the propagation materials thereof, hereinafter the same) .

Article 4 Responsibilities and division of work

The General Administration of Quality Supervision, Inspection and Quarantine (hereinafter referred to as AQSIQ) shall administer the entry & exit inspection and quarantine, and the supervision and administration thereof of the whole country in a uniform way. The entry & exit inspection and quarantine bodies set up by the AQSIQ at the localities (hereinafter referred to as the inspection and quarantine bodies) shall be in charge of the inspection and quarantine of entry and exit aquatic products and the supervision and administration thereof within the areas under their respective jurisdictions.

Article 5 Management mode

In accordance with laws, the inspection and quarantine bodies shall conduct inspection, quarantine, supervision and random inspection of the entry and exit aquatic products, and conduct credit management and category management system on enterprises that manufacture and process entry and exit aquatic products (hereinafter referred to as manufacturing enterprises).

Article 6 Subjective responsibility of manufacturing enterprises

Manufacturing enterprises shall conduct manufacture in accordance with laws, administrative regulations and relevant standards, bears responsibilities for society and the public, ensures quality and safety of aquatic products, accepts social supervision, and undertakes social responsibility.

Chapter II. Entry Inspection and Quarantine

Article 7 Entry Standard and safety assessment

Manufacturing enterprises of entry and exit aquatic products shall comply with:

- the laws, administrative regulations, national standard requirements of food safety of China
- inspection and quarantine requirements in the agreements, protocols and MOUs signed between China and exporting countries or regions
- quarantine requirements in the trade contracts.

With regard to aquatic products that do not have any national standard for food safety, the consignee shall submit the inspection and quarantine bodies the permit certificate issued by the health administrative departments of the State Council.

Article 8 Risk analysis

In accordance with laws, administrative regulations, national standard requirements of food safety of China, risk analysis results of domestic and foreign aquatic disease and epidemic situation and pest, AQSIQ shall take into consideration the assessment of efficiency of the countries/regions planning to export aquatic products to China, formulate and publish the inspection and quarantine requirements of China for entry aquatic products; or sign inspection and quarantine agreements ensure inspection and quarantine requirements and relevant certificates with countries or regions planning to export aquatic products to China

Article 9 Exporters and agents put on records

AQSIQ shall put into record management the exporters or agents exporting aquatic products to China, and regularly publish the list of those foreign exporters and agents that are qualified for entry of products.

Registration management of foreign manufacturing enterprises is implemented in accordance with relevant regulations of AQSIQ.

Article 10 Putting consignees into record

Inspection and quarantine bodies shall put consignees of entry aquatic products into record management. Only the consignees already subject to record management is permitted to go through entry aquatic product clearance.

Article 11 Import sale record system

Consignees of entry aquatic products shall establish aquatic entry and sale record system. The record shall be true, and be kept for no less than two years.

Article 12 Quarantine approval and inspection in advance

With regard to entry amphibians, reptiles and aquatic mammals and other aquatic products of high risk, AQSIQ will implement quarantine approval system. The consignee of the above mentioned products must go through inspection approval procedure to get entry animal and plant quarantine permit before signing a trade contract.

According to necessity and relevant regulations, AQSIQ will send officials to exporting countries or regions to conduct inspection in advance on aquatic products.

Article 13 Applying for inspection on entry products

Prior to or during entry of aquatic products, the consignee or the agent shall hold the original inspection quarantine certificate, certificate for country of origin, trade contract, bill of lading, packing sheet, invoice and other documents etc issued by the exporting country or region, and apply to the inspection and quarantine bodies at the entry ports for inspection.

The entry aquatic products shall be accompanied by the inspection and quarantine certificate of the exporting country or region, and shall comply with the requirements of AQSIQ for the certificate.

Article 14 Accepting the application for inspection

Inspection and quarantine bodies shall examine the relevant documents submitted by the consignee or the agent, accept the application for inspection meeting the requirements, write off the quarantine approval number, and issue the clearance certificate for entry goods.

Article 15 Cold store for storage

The entry aquatic products shall be stored in the cold store designated by the inspection and quarantine bodies. The entry ports shall possess the cold store with suitable capacity for the quantity of entry aquatic products. The cold store shall comply with the inspection and quarantine requirements of cold store for entry aquatic products.

Article 16 Disease prevention and disinfection treatment of transport means

Transport means and containers loading and transporting entry aquatic products, shall implement disease prevention and disinfection treatment under the supervision of inspection and quarantine bodies at the entry port.

Article 17 On-site inspection and quarantine

The inspection and quarantine bodies at the entry port shall conduct on-site inspection and quarantine for entry aquatic products. The items subject to on-site inspection and quarantine includes the following:

- (1) Verify the document and examine the goods;
- (2) Check the package to see if the entry aquatic products meet the basic requirements.
- (3) Conduct phytosanitary quarantine, or when necessary, disinfection treatment on entry brined or dried aquatic products that are easy to breed phytosanitary pests.

- (4) Check whether the goods are rotten, or with foreign matter, are dried, with much iced blood, with much ice or frost.

Article 18 Label inspection

The label in Chinese of entry pre-packaged aquatic products shall comply with mandatory requirements of relevant laws, administrative regulations in China, and technical standards of other countries. Inspection and quarantine bodies shall inspect the label of pre-packaged aquatic products in accordance with regulations.

Article 19 Sample test

In accordance with regulations, the inspection and quarantine bodies shall collect samples of entry aquatic products, and carry out test or monitor the following items on basis of requirements of relevant standards, monitoring plans and warning notifications etc:

- (1) pathogenic microbes, residues of heavy metals, agricultural chemicals, veterinary drugs and other poisons or harmful matters;
- (2) Epidemic diseases and parasites;
- (3) Other required items.

Article 20 Treatment results of inspection and quarantine

For the aquatic product that has passed inspection and quarantine, the inspection and quarantine bodies at entry port shall issue the inspection and quarantine certificate for entry goods, which approves the manufacture, processing, sale and use. The inspection and quarantine certificate for entry goods shall specify the traceable information including container number, manufacture batch number, manufacturer, and shipping mark etc.

With regard to the aquatic product that has not passed inspection and quarantine, the inspection and quarantine bodies shall issue a notification of inspection and quarantine treatment. If it is concerning the items other than human safety, health and environmental protection, it may be subject to technical treatment under the supervision of the inspection and quarantine bodies, and may be sold or used after being cleared through inspection and quarantine again.

For the applicant who applies for the certificate concerning the claim for compensation or other certificates, the inspection and quarantine bodies shall issue relevant certificates.

Article 21 Return or destruction

The aquatic shall be returned or destroyed in any one of the following cases:

- (1) The product, required to apply for entry quarantine approval, does not have valid entry animal and plant quarantine permit;
- (2) Does not have valid inspection and quarantine certificate issued by official bodies of the exporting country or region;
- (3) Does not meet requirements of human safety, health and environment protection items.

Chapter III. Exit Inspection & Quarantine

Article 22 Exit inspection & quarantine

The aquatic products for export shall be supervised and spot checked by the inspection & quarantine agency, and then the Customs could allow the aquatic products to pass as per the Customs Clearance Certificate issued hereby.

Article 23 Requirements for exit inspection & quarantine

The inspection & quarantine agency shall carry out the inspection & quarantine on the aquatic

products and package thereof in accordance with the requirements as below:

- (I) Requirements for inspection and quarantine in the importing country or region;
- (II) Requirements for inspection and quarantine as specified by the inspection & quarantine-related agreement, protocol and memorandum signed by and between importing country or region and China;
- (III) Requirements for inspection and quarantine as specified by Chinese laws & regulations and AQSIQ;
- (IV) Requirements for quality, quantity, weight and packing as officially specified by the importing country or region;
- (V) Requirements for quarantine as specified in the trading contract.

Article 24 Aquatic farms records

As permitted and supervised by the fishery administrative department, the inspection & quarantine organ shall carry out the records management on the fishery for export. The producers for exported aquatic products shall adopt the raw materials from the archived fisheries, waters or fishing vessel approved by the fishery administrative department as well as is subject to the requirements for inspection and quarantine in the importing country or region.

Article 25 Requirements for aquatic farms recorded

The aquatic farms recorded shall meet the basic conditions and sanitary requirements as below:

- (I) Provided with cultivating permission from the fishery administrative department;
- (II) Certain scale of fishery farming shall be available: total area of pond or open maritime space for fishery farming shall be over 50 mu; total area of cement pool for fishery farming shall be over 10 mu. Also, the standardized no. for the rearing pond shall be available;
- (III) Sufficient water source; the water for fishery farming is subject to the *Water Quality Standard for Fishery*;
- (IV) Free from livestock & poultry farm, hospital, chemical factory, dump; also, facilities are available to separate the outside environment; the sanitary environment inside the fishery is good;
- (V) Properly arranged to meet the quarantine as required, so as to avoid the cross contamination arising from water supply or drainage;
- (VI) The warehouse for medicines and warehouse for forage are respectively established; also, these warehouses shall be kept clean, dry and ventilated. The registrant shall be available to record the warehousing and delivery;
- (VII) Cultivating density is appropriate; also, the equipment for oxygen increase shall fit for the cultivating density;
- (VIII) The forage is from the forage processing factory archived by the inspection & quarantine organ as well as subject to the *Measures for Inspection and Quarantine on Forage of Edible Animal* as specified;
- (IX) Do not use the drug and other poisonous substances forbidden by China, importing country or region. The adopted drug shall be marked with effective ingredients and records for use as well as strictly follow the drug withdrawal as required;
- (X) Perfect management organ and written fishery farming control system (including young fish

procurement, cultivating, quarantine and use of drug & forage);

- (XI) The qualified fishery technician and quality supervisor shall be available; also, the qualified fishery technician and quality supervisor shall be assumed by different person. The fishery technician shall use the medicine according to the formula, while the medicine shall be issued by the quality supervisor. Both the qualified fishery technician and quality supervisor shall meet the conditions as follows:
1. Familiar with and follow the inspection & quarantine-related laws, administrative regulations;
 2. Familiar with and follow regulations for aquatic disease and veterinary medicine as specified by the administrative department for agriculture;
 3. Familiar with regulations and standards for medicine residual control as specified by the importing country or region;
 4. Provided with certain cultivating experience or above the degree for cultivating.
- (XII) Establishing of timely report system for major epidemic diseases and incidents

Article 26 Procedures for fishery farm archiving

Archiving of fishery for exported aquatic products shall follow the procedures as below:

- (I) Fishery for exported aquatic products shall apply for archiving and submit relevant documents to the local inspection & quarantine organ;
- (II) As per the basic conditions and sanitary requirements in article 26 herein, the inspection & quarantine organ shall examine the candidate fishery for exported aquatic products which could be proved by the inspection & quarantine bureau with the achieving certificate in case the above basic conditions and sanitary requirements are met;
- (III) The archiving certificate shall come into force since the date when it is issued. The effective period thereof lasts for four years. The renewal thereof shall be proposed by the fishery for exported aquatic products three months ahead of the effective period;
- (IV) In case of change of address, name, cultivating scale, ownership and legal representative, the archived fishery for exported aquatic products shall timely re-apply for archiving or handle the procedures for change at the local inspection & quarantine organ.

Article 27 Goods supply certification

The exported aquatic products shall provide each batch of raw materials for exported aquatic products with supply certification.

Article 28 Requirements for medicine use

The agricultural inputs such as forage and veterinary medicine shall be used by the archived fishery for exported aquatic products in accordance with the food safety standards and regulations as specified by the importing country or region or China. Do not purchase or use the agricultural inputs which are not subject to the food safety standards and regulations as specified by the importing country or region or China.

Article 29 Supervision on archived fishery

The inspection & quarantine organ shall inspect and supervise the archived fishery for exported aquatic products as well as conduct relevant records. The inspection & supervision shall include

daily inspection and annual examining.

Based on the risk analysis, the inspection & quarantine organ shall carry out the monitoring on aquatic diseases, veterinary medicine residual, pollutant, water quality and other poisonous substances for the archived fishery for exported aquatic products, so as to set up the perfect safety risk information control system for exported aquatic products.

Article 30 Archiving of manufacturers for exported aquatic products

The manufacturers for exported aquatic products shall be archived by the inspection & quarantine organ according to the regulations for archiving management of food manufacturers.

If requirements for registration is raised by the importing country or region for China's manufacturers for exported aquatic products and the registered enterprises are recommended, AQSIQ's relevant regulations shall be followed.

Article 31 Quality system and enterprise's self-inspection

The manufacturers for exported aquatic products shall set up the perfect quality safety control system, which is traceable, so as to guarantee that the fresh-keeping agent, antiseptic, water-keeping agent and color-keeping agent are not improperly used in the aquatic products.

The manufacturers for exported aquatic products shall carry out the self-inspection on such poisonous substances as microbe, insecticides & veterinary medicine residual and pollutant on the raw materials and finished products. If the self-inspection is unavailable, the qualified inspection & testing organ shall be entrusted to conduct the inspection.

Article 32 Production batch control

As the aquatic products are processed, the production batch control shall be carried out by the manufacturers for exported aquatic products on the basis of fishery. For the aquatic products from different fisheries, the raw materials thereof shall not be processed as the same production batch. From raw materials to finished products, the production batch no. shall be kept unchanged.

The marking of production batch no. shall be separately specified.

Article 33 Examining records

The manufacturers for exported aquatic products shall set up the examining records for raw material procurement and examine the attached supply certificate for the raw materials. The records for supply examining shall be authentic and kept for at least two years.

The manufacturers for exported aquatic products shall set up the ex-work examining system to examine the qualification and safety conditions of the ex-work aquatic products as well as truly record the name, specification, quantity, production date, production batch no., qualification no., purchaser name & liaison and selling date of the aquatic products.

Examining records for ex-work aquatic products shall be authentic and kept for at least two years. years.

Article 34 Packing label

The packing label for the exported aquatic products shall be subject to the requirements as specified by the importing country or region. The importing country or region shall be clearly

marked on the package for delivery.

Article 35 Inspection for exit

As specified by AQSIQ, the manufacturers for exported aquatic products or the agents thereof shall ask the local inspection & quarantine organ to carry out the inspection on the strength of trading contract, manufacturer's test report or ex-work qualification and delivery note.

As the exported aquatic products are delivered for inspection, the written certificate shall be available to verify the content of poisonous substances such as drug residual, heavy metal and microbe meet the requirements as specified by the importing country or region and China.

Article 36 Sampling

Based on the risk analysis, the pathogenic microbe, insecticides & veterinary medicine residual and pollutant in the exported aquatic products shall be sampled by the inspection & quarantine organ; also, examining and supervision shall be conducted for the quality safety control system during the production & processing of exported aquatic products.

Article 37 Qualification appraisal

For the exported aquatic products without sampling, the inspection & quarantine organ shall examine the test report and shipment records thereof as required by the importing country or region, so as to carry out the comprehensive appraisal according to the daily supervision, monitoring and sampling. The relevant inspection & quarantine certificate could be issued for meeting the requirements, or the notice for disqualification shall be issued.

Article 38 Requirements for shipment

The manufacturers for exported aquatic products shall ensure that the transportation tools for exported aquatic products are provided with good sealing performance, so as to keep the aquatic products from pollution; also, the temperature demanded for transportation shall be guaranteed. In addition, sterilization shall be carried out as specified and relevant records shall be available.

Article 39 Port inspection

The manufacturers for exported aquatic products shall ensure that the goods are in conformity with the certificate and relevant records for delivery shall be available. The spot check shall be conducted by the inspection & quarantine organ. For the exported aquatic products passing the inspection at local area, they shall not be allowed to pass if the inconformity thereof to the certificate is found by the inspection & quarantine at the port.

Article 40 Deadline for exit

The effective period for inspection & quarantine of exported aquatic products shall be

- (I) Frozen (fresh-keeping) products: seven days;
- (II) Frozen dry products and independently frozen products: four months;
- (III) Other aquatic products: six months.

The exported aquatic products shall be re-inspected in case of exceeding the effective period of inspection and quarantine. Also, the inspection and quarantine of exported aquatic products shall

be separately conducted if required particularly by the importing country or region.

Chapter IV Supervision and management

Article 41 Safety monitoring system

AQSIQ shall carry out safety monitoring system for entry and exit aquatic products, formulate monitoring plans on basis of risk analysis, and real situation of inspection and quarantine, and identify the types and inspection items of entry and exit aquatic products from the country or region to be monitored.

In accordance with annual safety risk monitoring plans by AQSIQ for entry and exit aquatic products, Inspection and quarantine bodies shall formulate and implement the implementation scheme of risk management for entry and exit aquatic products in their jurisdiction areas.

Article 42 Risk management and fast feedback system

AQSIQ and inspection & quarantine organ shall carry out the risk management on entry and exit of aquatic products. The specific measures thereof shall be subject to the relevant regulations.

Article 43 Credit management

The manufacturer, consignee and consignor of aquatic products for entry & exit shall carry out the production and operation legally.

The inspection & quarantine organ shall set up illegal behavior archiving system for the manufacturer, consignee and consignor of aquatic products for entry & exit, so as to archive and disclose the illegal behavior.

Article 44 Notification system

In accordance with relevant regulations of food safety risk information management, AQSIQ and the inspection and quarantine bodies shall notify relevant departments, bodies and enterprises of safety risk information concerning entry and exit aquatic products, and in accordance with relevant regulations, submit reports.

Article 45 Inspection & quarantine organ's coordination system

The coordination system shall be enhanced between the inspection & quarantine organ governing the archived fishery for exported aquatic products and that governing the manufacturer for exported aquatic products. The monitoring on fishery shall be regularly informed by the inspection & quarantine organ governing the archived fishery for exported aquatic products to that governing the manufacturer for exported aquatic products; the manufacturer's examining on supply certification as well as quality safety of raw materials and finished products shall be regularly informed by the inspection & quarantine organ governing the manufacturer for exported aquatic products to that governing the archived fishery for exported aquatic products.

Article 46 Recalling system

In case the imported aquatic products suffer from safety problems, which may or have caused the injury on the human body and life, the consignee shall actively recall such aquatic products and immediately report such safety problems to the local inspection & quarantine organ. If the consignee fails to make the above recall, the inspection & quarantine organ shall order the consignee to recall the aquatic products with such safety problems.

In case the exported aquatic products suffer from safety problems, which may or have caused the injury on the human body and life, the manufacturer for exported aquatic products shall actively recall such aquatic products and immediately report such safety problems to the local inspection & quarantine organ.

In case of recalling of aquatic products for entry and exit, it shall be timely reported by the inspection & quarantine organ to AQSIQ.

Article 47 Cancellation of archived fishery

The archiving of fishery for exported aquatic products shall be cancelled in case of the situations as below:

- (I) Use or storage of drug and other poisonous substances forbidden by China and importing country or region; the adopted drug is not marked with the effective ingredient or use of the drug with forbidden medicine and medicine additive; the drug is not suspended as specified during the drug suspension period;
- (II) Provision of fake supply certificate, transfer or transfer in disguised form of archiving no.;
- (III) Concealing of major epidemic disease of aquatic products or failing to report such epidemic disease to the inspection & quarantine organ;
- (IV) Refuse the management and monitoring from the inspection & quarantine organ;
- (V) Fail to apply for the modification within 30 days after the name and legal representative of archived fishery are changed;
- (VI) Fail to report the inspection & quarantine organ within 30 days after the size of fishery is enlarged; new drug or forage is adopted or quality safety system is substantially changed;
- (VII) The goods are not exported within a year;
- (VIII) The renewal of achieving is not applied as scheduled;
- (IX) Fail to pass the annual examining.

Article 48 Improvement of manufacturer operating against regulations

The inspection & quarantine organ could order the manufacturer to make improvement in case of one of the situations as below:

- (I) The products are rejected by the importing country or region for the first time due to the disqualification in safety & health-related items such as pathogenic microbe, pollutant, insecticide & veterinary medicine;
- (II) The consecutive sampling of three batches of products fails to meet the requirements for safety & health;
- (III) The source of raw materials is unknown; batch no. control is disordered;
- (IV) During the daily inspection, the same disqualified item is found for three times within a year;
- (V) Fail to establish the product feedback and recall system.

Article 49 Legal liability

In case the manufacturers for imported & exported aquatic products has other violations against the laws, they shall be punished as per the relevant laws & administrative regulations.

Article 50 Administrative personnel's legal liability

If the inspection & quarantine organ and personnel thereof violate laws & regulations and the measures as carrying out the inspection & quarantine on the imported & exported aquatic products, they shall be punished by the competent department at higher level.

Chapter V Supplementary Articles

Article 51 Interpretation

The measures shall be interpreted by AQSIQ

Article 52 Implementation time

The measures shall be implemented on MM/DD/2010. Also, the *Regulations on Inspection and Quarantine of Imported and Exported Aquatic Products* (No. 31 in 2002), implemented on December 10, 2002, shall be abolished simultaneously.

END TRANSLATION